EXHIBIT 4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	)	MDL NO. 1456 CIVIL ACTION: 01-CV-12257-PBS Subcategory Docket: 06-CV-11337-PBS
THIS DOCUMENT RELATES TO	)	Judge Patti B. Saris
U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al., No. 06-CV-11337-PBS and *U.S. ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc.*, No. 07-CV-11618-PBS	)	Magistrate Judge Marianne B. Bowler

Declaration of Relator, Ven-A-Care of the Florida Keys, Inc., in Support of the Comprehensive Settlement of "AWP Type Claims" for the Federal Share of Medicaid Overpayments Against Abbott Laboratories Inc.

1. Ven-A-Care of the Florida Keys, Inc. is the *qui tam* Relator in both of the above styled cases brought against Abbott Laboratories Inc. ("Abbott") pursuant to the federal False Claims Act (31 U.S.C. § 3729, *et. seq.*) (collectively, the "Abbott *Qui Tam* FCA Actions"). The first action was commenced in June 1995 in the United States District Court for the Southern District of Florida (the "Florida Civil Action"). In March 2006, the United States intervened with respect to certain allegations made against Abbott in the Florida Civil Action. At that time, the intervened claims against Abbott were severed and assigned case number 06-21303-CV-GOLD (S.D. Fla.). In July 2006, the intervened claims against Abbott were transferred to MDL and assigned case number 06-CV-11337-PBS. This action, hereafter the "Florida Abbott HPD Case," relates to pharmaceutical products manufactured by Abbott's former Hospital Products Division.

2. The second action was commenced in April 2000 in the United States District Court for the District of Massachusetts (the "Massachusetts Civil Action"). The Relator

amended this action in February 2001 to include claims against Abbott relating to pharmaceutical products manufactured by Abbott's Pharmaceutical Products Division ("PPD"). The United States declined to intervene in the claims made against Abbott in the Massachusetts Civil Action. The Relator has proceeded with the civil prosecution of the claims against Abbott in the Massachusetts Civil Action on behalf of the United States. In August 2007, the claims against Abbott in the Massachusetts Civil Action were severed, the severed action against Abbott was assigned Civil Action No. 07-CV-11618-PBS (the "Massachusetts Abbott PPD Case"), and Relator filed a severed amended complaint. The severed claims in Civil Action No. 07-CV-11618-PBS were transferred to MDL 1456.

3. The Abbott *Qui Tam* FCA Actions are both based on the Relator's disclosures of information to the United States and allegations that Abbott engaged in a course of conduct whereby it allegedly knowingly reported falsely inflated prices for some of its drugs in order to cause the states and federal jointly funded Medicaid Program, and for some drugs the Medicare Program, to overpay for Abbott's pharmaceutical products, thus creating a financial inducement for Abbott's customers which the Relator alleges Abbott knowingly exploited as a marketing advantage. The Relator has alleged that Abbott's conduct violated the False Claims Act (31 U.S.C. § 3729, *et. seq.*) and the Medicare and Medicaid Anti-kickback Statute (42 U.S.C. §1320a-7b(b)).

4. The Abbott *Qui Tam* FCA Actions are two of many "AWP Type Cases" included in this MDL and otherwise filed in other courts around the United States. The Relator has brought similar AWP Type Cases against Abbott under the *qui tam* provisions of other state statutes similar to the federal FCA seeking recovery of alleged Medicaid overpayments.

5. The Relator, Abbott, and the United States have agreed to a resolution that will encompass both of the Abbott *Qui Tam* FCA Actions. Although the United States declined to intervene in the Massachusetts Abbott PPD Case, the Relator cannot effectively settle that case unless the United States consents to its dismissal with prejudice. The Relator understands that the requisite consent will be given as part of the parties' comprehensive resolution of the Abbott *Qui Tam* FCA Actions. The Relator has agreed to provide this Declaration in order to facilitate the resolution of the Massachusetts Abbott PPD Case. The Relator, acting through its current officer and director, John Lockwood, M.D. and with the knowledge and consent of the Relator's President, T. Mark Jones, understands that the representations contained herein will be made part of the proposed order dismissing the Massachusetts Abbott PPD Case.

6. In the Massachusetts Abbott PPD Case, the Relator alleged FCA violations with respect to various National Drug Codes of the drug, Erythromycin, sold by Abbott's PPD Division. The Relator's allegations in the Massachusetts Abbott PPD Case focus on those drugs for which the Relator determined that FCA violations could be established and substantial damages recovered based, in part, on an analysis and drug selection process similar to the standards that would later be applied by the Court in the present MDL, consistent with the "30% yardstick expected in the industry" (the "30% yardstick") and the Court's finding that "if more than 50 percent of all sales were made at or about [within 5%] the list price, the list price will not be deemed fictitious" (the "50% within 5% WAC" test). *See In re: Pharmaceutical Industry Average Wholesale Price Litigation*, 491 F. Supp.2d 20, 32, 101-02, 105 (D. Mass. 2007).

7. The Relator's investigations of Abbott's conduct have included, but have not been limited to, an investigation of price reporting and related marketing conduct with respect to Abbott PPD brand drugs for which there was substantial Medicaid reimbursement, on a WAC

plus or AWP minus basis, during the 1991 thorough 2005 time period. In addition to the Erythromycin products identified in the Massachusetts Abbott PPD Case, the Relator's investigation included those Abbott PPD brand drugs listed on Exhibit A attached hereto. The Relator carefully analyzed its industry insider pricing and marketing information relating to those brand drugs reflected on Exhibit A, including, but not limited to, the McKesson/Econolink pricing data at various points in time, the Amerisource Bergen Echo pricing database at various points in time, and pricing information from various group purchasing organizations and other sources.[1] To determine whether the WAC and AWP prices would be considered false, fraudulent, or deceptive consistent with the standards applied by this Court, the Relator compared the market price information contained in McKesson/Econolink pricing data, Amerisource Bergen Echo pricing database, and various other sources with the WAC and AWP information published by First Databank for those drugs listed on attached Exhibit A. In addition, the Relator further considered its industry insider information in an effort to identify instances where it considered the manufacturer to have marketed an inflated spread for those drugs reflected on Exhibit A.

[1] Relator understands that additional NDCs of the drugs listed in Exhibit A were sold in the marketplace. The Relator analyzed those NDCs for which it had pricing information.

8. Based on its analysis of its industry insider pricing and marketing information, and with reference to the three-factor test applied by this Court in other AWP cases (*see In re: Pharmaceutical Industry Average Wholesale Price Litigation*, 491 F. Supp.2d 20, 101-02 (D. Mass. 2007), the Relator did not find pricing and marketing conduct with respect to those brand drugs not identified in the Massachusetts Abbott PPD Case, and reflected on Exhibit A attached hereto, to be false, fraudulent, or deceptive. Accordingly, the Relator did not believe them to be a proper basis for an FCA claim based on the theory of liability set forth in Paragraph 3 above.

Dr. John Lockwood

Dated: ~~November~~ Dec. 2, 2010

EXHIBIT A

to Relator Declaration

NDC	Drug
00074258611	BIAXIN
00074258660	BIAXIN
00074316313	BIAXIN
00074316350	BIAXIN
00074318813	BIAXIN
00074318850	BIAXIN
00074336811	BIAXIN
00074336860	BIAXIN
00074338660	BIAXIN
00074316511	BIAXIN XL
00074316541	BIAXIN XL
00074316560	BIAXIN XL
00074166413	CARTROL
00074166513	CARTROL
00074602513	CYLERT
00074605713	CYLERT
00074607313	CYLERT
00074608813	CYLERT
00074156410	DEPACON
00074568113	DEPAKENE
00074568216	DEPAKENE
00074621211	DEPAKOTE
00074621213	DEPAKOTE
00074621411	DEPAKOTE
00074621413	DEPAKOTE
00074621453	DEPAKOTE
00074621511	DEPAKOTE
00074621513	DEPAKOTE
00074621553	DEPAKOTE
00074821213	DEPAKOTE
00074712611	DEPAKOTE ER
00074712613	DEPAKOTE ER
00074611411	DEPAKOTE SPRINKLE
00074611413	DEPAKOTE SPRINKLE
00074337704	DESOXYN
00074694104	DESOXYN
00074694808	DESOXYN
00074695907	DESOXYN
00074379401	DICUMAROL
00074683801	ENDURONYL
00074685401	ENDURONYL FORTE
00074332213	HYTRIN
00074332311	HYTRIN
00074332313	HYTRIN
00074332413	HYTRIN
00074332511	HYTRIN
00074332513	HYTRIN
00074380511	HYTRIN
00074380513	HYTRIN
00074380611	HYTRIN
00074380613	HYTRIN

00074380711	HYTRIN
00074380713	HYTRIN
00074380811	HYTRIN
00074380813	HYTRIN
00074395646	KALETRA
00074395977	KALETRA
00074780411	K-TAB
00074780413	K-TAB
00074780419	K-TAB
00074780425	K-TAB
00074314201	NEMBUTAL
00074311401	NEMBUTAL SODIUM
00074314801	NEMBUTAL SODIUM
00074315011	NEMBUTAL SODIUM
00074316401	NEMBUTAL SODIUM
00074377804	NEMBUTAL SODIUM
00074377805	NEMBUTAL SODIUM
00074194063	NORVIR
00074663322	NORVIR
00074949202	NORVIR
00074376930	OMNICEF
00074376960	OMNICEF
00074377113	OMNICEF
00074377160	OMNICEF
00074615113	OMNICEF
00074615160	OMNICEF
00074338913	PCE
00074629060	PCE
00074373513	PROSOM
00074373613	PROSOM
00074269913	TRANXENE SD
00074299713	TRANXENE SD
00074438913	TRANXENE T-TAB
00074439013	TRANXENE T-TAB
00074439113	TRANXENE T-TAB
00074400990	TRICOR
00074401390	TRICOR
00074434290	TRICOR
00074641590	TRICOR
00074644790	TRICOR